

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

PFIZER INC,	x
ROBERT JARVIK, M.D.,	:
JARVIK HEART, INC.,	: Civil Action No. 08 Civ. 2018 (LAK)
	: (JCF)
Plaintiffs,	:
	: <u>NOTICE OF MOTION</u>
v.	:
	:
MATHEW I. GELFAND, M.D.,	:
	:
Defendant.	:
	x

PLEASE TAKE NOTICE that, upon the attached affidavit of David G. Ebert, sworn to April 10, 2008, the accompanying memorandum of law, and all prior proceedings in this action, plaintiffs will move this Court, before the Honorable Lewis A. Kaplan at the Courthouse, 500 Pearl Street, New York, New York 10007-1312, at such date as the Court may designate, for an order granting plaintiffs' motion to dismiss and/or ~~strike~~ defendant's counterclaims pursuant to Federal Rules of Civil Procedure 12(b)(6) and 12(f), and for such other and further relief as Court deems just and proper.

Dated: New York, New York
April 10, 2008

**INGRAM YUZEK GAINEN CARROLL
& BERTOLOTTI, LLP**



By: _____

David G. Ebert (DE - 4078)
Attorneys for Plaintiffs, Pfizer Inc.,
Robert Jarvik, M.D., and Jarvik Heart, Inc.
250 Park Avenue
New York, New York 10177
(212) 907-9600

Of Counsel:

Rudolf E. Hutz

Jeffrey B. Bove

Mary W. Bourke

William E. McShane

CONNOLLY BOVE LODGE & HUTZ LLP

1007 North Orange Street

Wilmington, DE 19899

(302) 658-9141

TO: Mitchell J. Rotbert
The Rotbert Law Group, LLC
7315 Wisconsin Avenue
Suite 1250 West
Bethesda, Maryland 20814
Attorneys for Defendant
Mathew I. Gelfand, M.D.